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BANNER & WITCOFF 1001 G STREET N W SUITE 1100 WASHINGTON, DC 20001			BECKER, SHAWN M	
			ART UNIT	PAPER NUMBER
			2173	12

DATE MAILED: 05/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	dpm
	10/092,261	MAKIPAA ET AL.	
	Examiner	Art Unit	
	Shawn M. Becker	2173	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 16 April 2004.
- 2a) This action is FINAL.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-35 and 37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) \_\_\_\_\_ is/are rejected.
- 7) Claim(s) 36 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. <u>12</u> .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

This action is in response to communication filed 4/16/04.

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 35 and 37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claims 35 and 37 recite the limitation "the database" in line 5 and line 6, respectively, of the claim. There is insufficient antecedent basis for this limitation in the claim. Furthermore, -- the-- or --said-- should be inserted between "by" and "application" in line 6 and line 7, respectively, of the claim.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-34 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,507,351 to Bixler.

Referring to claim 1, Bixler discloses an apparatus for displaying screen saver views managed by a screen saver program and generated by a computer application operating in a screen saver mode with a storage medium and a processor coupled to the storage medium. See Fig. 1, 101 (Central Processor Unit with Data Storage Memory). The computer application of Bixler is an independent program from the screen saver program. For example, see col. 2, lines 30-59 and col. 6, lines 1-10, which describes how the screen saver views are generated/compiled by separate sources, such as e-mail applications, personal appointment applications, and other conventional software utility programs. The views are acquired from these sources, and the sources are functional independent of the screen saver program. As another example, see col. 6, lines 22-33, which describes how the screen saver program manages photos, which are views generated by graphic/photo editing software (which is an application independent of the screensaver program).

Bixler discloses (a) monitoring the apparatus for detecting inputs from a command entry device. The apparatus of Bixler (b) determines whether a timeout period of inactivity has been exceeded, and (c) in response to step (b), starts a screen saver program (see col. 7, lines 17-21) and d) executes an application in a screen saver mode based on instructions from the screen saver program. See col. 2, lines 6-45 and col. 5, line 25 - col. 6, line 10, which describe how the information management system control program (Fig. 1, 100) is a screen saver program that controls (contains instructions for) what information and images of applications are included in a screen saver mode. The application of Bixler is a program that is independent of the screensaver program (i.e. email, scheduling and appointment applications do not rely on the screensaver) and that is fully functional in a full application mode and that is less than fully functional in a screen

saver mode. The application creates images for presentation on a display screen in the screen saver mode. See col. 2, lines 6-15 and col. 3, lines 1-12, which describe several applications that may be implemented and fully functional in a full application mode, such as e-mail, scheduling and appointment data, web-site content, etc., and is displayed less than fully functional in a screen saver mode. These utility programs (applications) are automatically accessed to receive updated information (col. 2, lines 55-58); therefore, in order for the screen saver mode to retrieve and display the updated information, the screen saver program executes the application (utility program). As an example, see col. 3, lines 52-64, which describes presenting selected information from a web site, which means executing a less than fully functional web browser (application) in order to retrieve the selected information (i.e. bid results).

Referring to claim 14, Bixler discloses a wireless communication device (PDA), comprising a receiver, a memory storing data, and a display screen. See col. 2, lines 46-51 and Fig. 1, 101. Bixler discloses at least one application stored in the memory having at least one handle executing the at least one application in a screen saver mode when the at least one handle is selected, the at least one application creating images for presentation on the display screen in the screen saver mode, and a screen saver program stored in the memory that during operation of the screen saver program, selects the at least one application handle. See col. 2, lines 32 - col. 3, line 12. As an example, see col. 3, lines 52-64, which describes presenting selected information from a web site when the handle (pointer) to the web browser is invoked in the display cycle (col. 7, lines 32-55), which means executing a less than fully functional web browser (application) in order to retrieve the selected information (i.e. bid results). The screen saver program of Bixler is an independent program from the at least one application. For example, see

col. 5, lines 30-43, which describes how the screen saver program retrieves the data items from multiple sources and uses conventional screen saver programming techniques; therefore, the screen saver program will run even without the at least one application (i.e. is not dependent on the application).

Referring to claim 2, Bixler describes that the apparatus may be any computer device having a display, including a PDA, which is a wireless communication device. See col. 2, lines 46-51.

Referring to claims 3 and 15, the apparatus of Bixler further contains a carousel stored in the storage medium, and an application handle stored in the carousel ("display cycle"), the handle being associated with the application and executing the application in the screen saver mode. See col. 7, lines 32-55, which describes how several applications are displayed through the "display cycle". Each application must contain a handle to be identified.

Referring to claims 4 and 16, the carousel ("display cycle") of Bixler contains a database stored in the storage medium containing the application handle and rules for selecting the application handle. See col. 7, lines 2-7.

Referring to claims 5 and 17, the rules of Bixler are definable by a user of the apparatus. See col. 7, line 34, which describes how the duration, frequency, and order are user-selected. Also, see col. 7, lines 44-47.

Referring to claims 6 and 18, the rules of Bixler comprise default rules. See Figs. 7-14, which show the set-up menus, which have options that are initialized to default settings.

Referring to claims 7 and 19, the database of Bixler further contains application execution parameters associated with the handle, wherein the application is executed in the

screen saver mode according to the parameters associated with the handle selected for executing the application. See col. 7, lines 32-55, which describe how the applications are displayed according to selected display characteristics (parameters).

Referring to claims 8 and 20, the application additionally has another handle comprising different execution parameters. For example, see col. 11, lines 14-46, which describe how the different parameters (characteristics) may be accessed.

Referring to claims 9 - 10 and 21, the apparatus of Bixler is in communication with a network (i.e. Internet) and displays current information generated by the application operating in the screen saver mode based on data received from the network, and the images are continually updated in response to data received from the network. For example, see col. 3, lines 58-64.

Referring to claim 22, one of the parameters of Bixler that is associated with the network application is a uniform resource locator (URL). See col. 10, lines 14-16.

Referring to claim 23, the device of Bixler is has at least one application written in a Java programming language. See col. 6, line 43, which describes how an application may be for a web browser, which may be written in a Java programming language (i.e. JavaScript).

Referring to claim 11, the processor of Bixler further performs the step of (e) executing at least one additional application in a corresponding screen saver mode, the at least one additional application being a program that is fully functional in a corresponding full application mode and that is less than fully functional in a corresponding screen saver mode, the at least one additional application creating images for presentation on the display screen in the corresponding screen saver mode. See col. 2, lines 34-39, which describes several applications that are displayed in a screen saver mode.

Referring to claim 12, Bixler discloses that the processor cycles between performing steps (d) and (e) according to an order. See col. 7, lines 32-55.

Referring to claim 13, the order of Bixler comprises rules for scheduling the execution of applications in their respective screen saver modes. See col. 7, lines 44-47.

Referring to claim 24, Bixler discloses a method of creating screen saver displays on a display device, the device having a display screen, and a storage medium. See Fig. 1, 101 and 103. The device of Bixler has a screen saver computer program stored in the storage medium, a screen saver carousel (“display cycle”) stored in the storage medium (col. 2, line 46 - col. 3, line 12), and an application stored in the storage medium that is fully functional in a full application mode and less than fully functional in a screen saver mode. See col. 2, lines 6-15 and col. 3, lines 1-12, which describe several applications that may be implemented and fully functional in a full application mode, such as e-mail, scheduling and appointment data, web-site content, etc., and is displayed less than fully functional in a screen saver mode. The application of Bixler is an independent program from the screen saver program. For example, see col. 2, lines 30-59 and col. 6, lines 1-10, which describes how the screen saver views are generated/compiled by separate sources, such as e-mail applications, personal appointment applications, and other conventional software utility programs. The views are acquired from these sources, and the sources are functional independent of the screen saver program. As another example, see col. 6, lines 22-33, which describes how the screen saver program manages photos, which are views generated by graphic/photo editing software (which is an application independent of the screensaver program). These utility programs (applications) are automatically accessed to receive updated information (col. 2, lines 55-58); therefore, in order for the screen saver mode to

retrieve and display the updated information, the screen saver program executes the application (utility program). As an example, see col. 3, lines 52-64, which describes presenting selected information from a web site, which means executing a less than fully functional web browser (application) in order to retrieve the selected information (i.e. bid results).

The method of Bixler adds an application handle (identifier) to execute an application in a screen saver mode to the screen saver carousel. See col. 3, lines 1 and 5. The method starts the screen saver program in response to exceeding a timeout period of inactivity (col. 3, lines 8-9) and selects the application handle via the screen saver program (control program) to execute the application in the screen saver mode. For example, see col. 7, lines 32-55.

Referring to claim 25, the applications of Bixler (i.e. spreadsheets; col. 2, lines 7-15) must be installed on the display device (i.e. PDA). The method comprises selecting an option for the application to operate in the screen saver mode. See col. 2, lines 51-64, which describe the setup menus for selecting the applications that are to operate in the screen saver mode.

Referring to claim 26, the applications of Bixler (i.e. scheduling and appointment applications; col. 2, lines 7-15) are pre-installed on the device, and the method executes the application in a full application mode on the display device, and selects an option for installing a screen saver mode for the application to operate in the screen saver mode. See col. 2, lines 30-39 and col. 10, lines 50-57, which describe the applications being executed in both full application mode and screen saver mode.

Referring to claim 27, the method of Bixler monitors the display device for a timeout signal that the application has exceeded a time period allotted for operation in the screen saver mode. See col. 7, lines 17-21. In response to the detecting the timeout signal, if another

application has been configured to operate in a screen saver mode, Bixler executes another application in a screen saver mode associated with the another application. For example, see col. 7, lines 32-55, which describe how several application are displayed in a screen saver mode in a “display cycle”.

Referring to claim 28, the method of Bixler monitors the display device for an input signal from a command entry, and if a signal is received from the command entry device after the application has been executed, determining whether the executed application operating in the screen saver mode is an interactive application, and if the executed application is an interactive program, terminating the screen saver program, and executing the interactive program in a full application mode. See col. 10, lines 50-58.

Referring to claim 29, Bixler discloses a computer readable medium having computer-executable instructions for performing steps comprising monitoring activity on a device having a display screen (col. 2, lines 46-51). Bixler determines whether a timeout period of inactivity on the device has been exceeded and starts a screen saver program (col. 7, lines 17-21). Bixler evaluates whether a screen saver carousel (“display cycle”) contains application handles (identifiers), each of the application handles executing a respective application in a screen saver mode when selected by the screen saver program. See col. 2, lines 33-39 and col. 7, lines 32-55 as examples. The application of Bixler is an independent program from the screen saver program. For example, see col. 2, lines 30-59 and col. 6, lines 1-10, which describes how the screen saver views are generated/compiled by separate sources, such as e-mail applications, personal appointment applications, and other conventional software utility programs. The views are acquired from these sources, and the sources are functional independent of the screen saver

program. As another example, see col. 6, lines 22-33, which describes how the screen saver program manages photos, which are views generated by graphic/photo editing software (which is an application independent of the screensaver program). If the carousel (“display cycle”) contains at least one application handle, and if the timeout period has been exceeded, Bixler selects the at least one application handle to execute the respective application. See col. 7, lines 32-55.

Referring to claim 30, the activity being monitored in Bixler is the detection of input signals from a command entry device in communication with the device (col. 7, lines 17-21). If a signal is not received from the command entry device, if a timeout period for operation of the respective application is exceeded, and if the carousel contains more than one handle, Bixler selects a different handle to execute another respective application associated with the different handle. See col. 7, lines 32-55, which describe the “display cycle” of different applications.

Referring to claim 31, the respective application associated with the at least one handle and the respective application associated with the different handle of Bixler are the same application configured for operation in different screen saver modes depending on the handle selected. See Figs. 7-14, which show the set-up menus, which may be configured for different screen saver modes.

Referring to claim 32, the respective application associated with the at least one handle and the respective application associated with the different handle are different applications. See col. 7, lines 32-55 and col. 2, lines 6-15, which describe different applications that may run in the screen saver mode.

Referring to claim 33, Bixler discloses that the activity being monitored is the reception of input signals from a command entry device (keyboard or mouse) in communication with the device. If a signal is received from the command entry device, after the respective application is executed, Bixler determines whether the respective application currently operating in the screen saver mode is an interactive application, and if the respective application is an interactive program, Bixler terminates the screen saver program and executes the respective interactive program in full application mode. See col. 10, lines 50-58.

Referring to claim 34, Bixler discloses a portable device (PDA; col. 2, line 51) comprising a display screen (Fig. 1, 103), a memory (Fig. 1, 101), and a command entry device (Fig. 1, 102). Bixler discloses a computer application stored in the memory, the application having at least one handle (identifier) executing the application in a screen saver mode when the at least one handle is selected. The application of Bixler is a program that is fully functional in a full application mode and that is less than fully functional in a screen saver mode. The application creates images for presentation on a display screen in the screen saver mode. See col. 2, lines 6-15 and col. 3, lines 1-12, which describe several applications that may be implemented and fully functional in a full application mode, such as e-mail, scheduling and appointment data, web-site content, etc., and is displayed less than fully functional in a screen saver mode.

Bixler discloses a different computer application stored in the memory having at least one different handle executing the different application in a different screen saver mode when the at least one different handle is selected, rules stored within the memory (database) for determining the scheduling for selecting the at least one handle, and parameters (characteristics) stored within

the memory associated with the at least one handle for controlling operational aspects of the application. See col. 7, lines 32-55.

Bixler discloses a screen saver program stored in the memory selecting the at least one application handle during operation of the screen saver program according to the rules. The application of Bixler is an independent program from the screen saver program. For example, see col. 2, lines 30-59 and col. 6, lines 1-10, which describes how the screen saver views are generated/compiled by separate sources, such as e-mail applications, personal appointment applications, and other conventional software utility programs. The views are acquired from these sources, and the sources are functional independent of the screen saver program. As another example, see col. 6, lines 22-33, which describes how the screen saver program manages photos, which are views generated by graphic/photo editing software (which is an application independent of the screensaver program). Bixler discloses a processor coupled to the memory that monitors the device for detecting inputs from the command entry device, determines whether a timeout period of inactivity from the inputs has been exceeded, and in accordance with the instructions from the screen saver program, selects the at least one handle stored in the carousel ("display cycle"). See col. 2, line 46 - col. 3, line 12.

If a signal is not received from the command entry device, if a timeout period for operation of the respective application is exceeded, and if the carousel contains more than one handle, Bixler selects a different handle to execute another respective application associated with the different handle. See col. 7, lines 32-55, which describe the "display cycle" of different applications.

If a signal is received from the command entry device, after the respective application is executed, Bixler determines whether the respective application currently operating in the screen saver mode is an interactive application, and if the respective application is an interactive program, Bixler terminates the screen saver program and executes the respective interactive program in full application mode. See col. 10, lines 50-58.

*Allowable Subject Matter*

6. Claims 35 and 37 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
7. Claim 36 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. The following is a statement of reasons for the indication of allowable subject matter: The closest prior art (i.e. Bixler) teaches executing the application in a full application mode, but does not teach or imply presenting an option within the full application mode of the application (i.e. the option is presented through the screen saver program and not the utility application in Bixler) to select a screen saver mode and add an application handle to a database prior to executing the application in a screen saver mode as explicitly claimed in claims 35-37.

***Response to Arguments***

9. Applicant's arguments filed 4/16/04 have been fully considered but they are not persuasive.

Applicant argues that the amendments to claims 1, 14, 24, 29, and 34 have been amended in accordance with the interview on March 24, 2004. However, the substance of the interview was to recite that ability to set up the screen save mode within each application (similar to newly added claims 35-37), and not to state that the application is independent of the screen saver program. Clearly each application in Bixler is a software utility program (i.e. email, appointment and scheduling programs, photo files, etc.) does not rely on the screen saver program, and can run on their own.

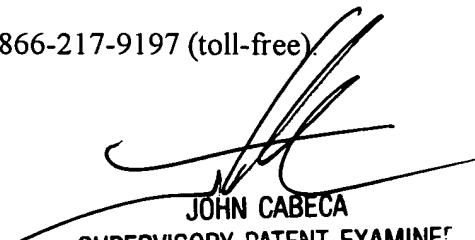
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawn M. Becker whose telephone number is 703-305-7756. The examiner can normally be reached on M-Th 8:00 - 5:30 and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Cabeca can be reached on 703-308-3116. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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